

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

DR DISTRIBUTORS, LLC, and CB
DISTRIBUTORS, INC.

Plaintiffs/Counterclaimant,

v.

21 CENTURY SMOKING, INC., and
BRENT DUKE,

Defendant/Counterclaim Defendant

21 CENTURY SMOKING, INC.,

Counterclaimant,

V.

DR DISTRIBUTORS, LLC, CB
DISTRIBUTORS, INC. and CARLOS
BENGOA,

Counterclaim Defendants.

Case No. 3:12-cv-50324

Judge Thomas M. Durkin

Magistrate Judge Iain Johnston

DEFENDANTS' STATUS REPORT
PURSUANT TO THIS COURT'S JUNE 6, 2019 ORDER

Defendants, 21 Century Smoking, Inc. (“21 Century”) and Brent Duke (“Mr. Duke”) (and collectively as “Defendants”), by and through their undersigned counsel, respectfully submit the following Status Report:

1. This Status Report is filed as a follow up to Defendants' Status Report of August 13, 2019 [Dkt. No. 318]. It is filed to inform the Court of the current status of recovery and production of electronically searchable information ("ESI").

2. On November 13, 2019, Defendants through counsel produced documents Bates numbered 21C2000001 to 21C2136674 to Plaintiffs' counsel as detailed in the attached Declaration of Kevin B. Salam and Exhibits A and Exhibits 1-5, attached thereto.

3. Also included with the instant Status Report is the Declaration of Daniel R. Rizzolo, one of Defendants' consulting forensic and e-discovery experts. Mr. Rizzolo's Declaration addresses the foundation for the information contained in Exhibits 1, 3, 4 and 5 attached to the Declaration of Kevin B. Salam.

Dated: November 14, 2019

Respectfully submitted,
Defendants, Brent Duke and
21 Century Smoking, Inc.

By: /S/ Mike Leonard
Attorney for Defendants

Michael I. Leonard
mleonard@leonardmeyerllp.com
LeonardMeyer, LLP
120 N. LaSalle, Suite 2000
Chicago, IL 60602
312-380-6559 (ph.)
312- 264-0671 (fax)

and

By: /S/ Kevin B. Salam
Attorney for Defendants

Kevin B. Salam
kevin@salamlaw.com
120 N. LaSalle, Suite 2000
Chicago, IL 60602
312-606-8730 (ph.)
312- 277-2539 (fax)

5. Exhibit 5 is a report of search term hits by data sources prepared by Defendants' consulting expert, Daniel R. Rizzolo, whose Declaration is included in the instant Status Report.

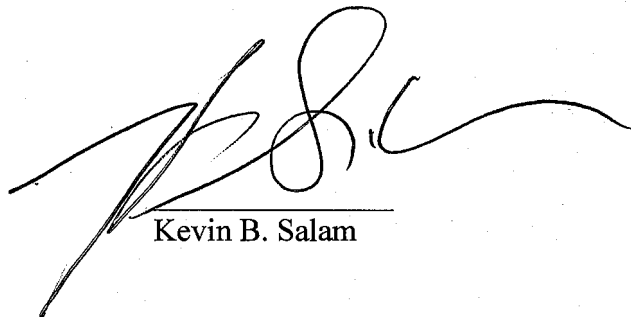
6. On November 13, 2019, I personally emailed to Plaintiffs' counsel and all counsel for former defense counsel who have appeared in this matter, Exhibit A and Exhibits 1-4 referred to therein. On November 14, 2019, I personally emailed to Plaintiffs' counsel and all counsel for former defense counsel who have appeared in this matter Exhibit 5.

7. On November 13, 2019, I personally emailed to Plaintiffs' counsel a link for the download of documents Bates numbered 21C2000001 to 21C2136674 referred to in Exhibit A and separately emailed Plaintiffs' counsel the password to unzip the file containing the production.

FURTHER DECLARANT SAYETH NAUGHT.

Pursuant to 28 U.S.C. §1746, I, Kevin B. Salam, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 14, 2019



Kevin B. Salam

THE LAW OFFICES OF
KEVIN SALAM

November 13, 2019

Via Email

Anthony Davis
Robert von Ohlen

Counsel:

Defendants are producing in industry standard metadata fields, electronic pdf's (where possible) and native files for the following documents, Bates numbered 21C2000001 to 21C2136674. I will email you a link to a Zip file and a separate email with the password to use to "Extract" the Zip file.

The production parameters are as follows:

The ESI search terms used were Plaintiffs' 20 search terms identified in Brian Gaynor's November 5, 2014, email to Heather Liberman (Defendants' Exhibit 4 to current hearing). They were run through the end date of July 1, 2015, the close of fact discovery.

The data sources that the ESI search terms were run on the data sources identified in the attached **Exhibit 1**, less the items highlighted in yellow on Exhibit 1. The following, which are highlighted in yellow on Exhibit 1, *were not searched* for the ESI search terms for the following reasons:

- bduke@yahoo.com: previously searched and produced on May 31, 2018 as 21C 1000001 to 21C 1015886(minus the documents withheld for privilege as identified in Defendants' June 6, 2018 privilege log, Plaintiffs' Exh. 54 to current sanctions hearing). See Line 6 on Exhibit 1.
- The four 21 Century Smoking computer hard drive images previously subjected to the ESI search terms by 4Discovery in December of 2012, which results were previously produced within Defendants' production 21C 0001 to 21C 63514. See Lines 41, 42, 46 and 48 on Exhibit 1.
- The carbonite back up files for Brent Duke's and Laurie Duke's computers, said computers having been previously subjected to ESI search terms in December 2014 by 4Discovery. See Lines 32 and 33 on attached on Exhibit 1.

Also note that the ESI terms were run against Steve Spraker's Gmail account that he used for 21 Century Smoking business as well as 21centurysmokingohio@gmail.com , an email Mr. Spraker also set up at his Gmail account. (See Lines 49 and 51 of Exhibit 1).

Also note that the ESI search terms were run on data from Brandon Duke's personal email account as well as on the data image from his computer that he had at the time he worked for 21 Century Smoking. (See Lines 50 and 52 of Exhibit 1).

Further, both of Brent's cell phones were collected as well as an old phone of Laurie's, separate from the one identified in the 8/13/19 status report for which the data could not be collected from due to lack of password for two factor identification.

The only phone texts in the production are two text strings between Mr. Duke and Mr. Robert Hough, which are produced at the beginning of the production. Unfortunately, these texts were not imaged in the course of production and are only in native format and only show text. However, I have asked our e-discovery provider to prepare a demonstrative exhibit that will present the text strings in a much more visually friendly form showing the conversations going to/from the participants along with dates and times of each text and reference to the Bates number for each text.

I also include as **Exhibit 2**, a "collection log" from our forensic consultants at QDiscovery, which shows the data sources and what was or was not collected. Note, support@sportsdoctrine.com, although collected, was not subjected to the ESI search terms or included in Exhibit 1, because this email address was not used for 21 Century Smoking business.

As to Exhibit 2, I also provide the following information:

- All of Mr. Duke's Facebook pages were included in the collection. This includes his personal Facebook page and the other pages associated with his account, including Facebook pages for 21 Century Smoking.
- Access was obtained to laurienomanson@yahoo.com. However, there was only one email present which was generated as a result of us logging in to the account (security settings changed on Yahoo account). The Craigslist account associated with the laurienomanson@yahoo.com email which did not exist/was not recoverable.
- 21centurysmokin@yahoo.com is not an existing email account.

This is more for your e-discovery vendor, but there are three empty BIN files that were included in the production and have a Native Slip Sheet. They are Bates numbers 21C2009793, 21C2024670, 21C2025891. This is well beyond my understanding. If your e-discovery vendor has questions, I will arrange for them to talk to our e-discovery vendor.

REPORTS:

I have included as **Exhibit 3**, a hit report by term.

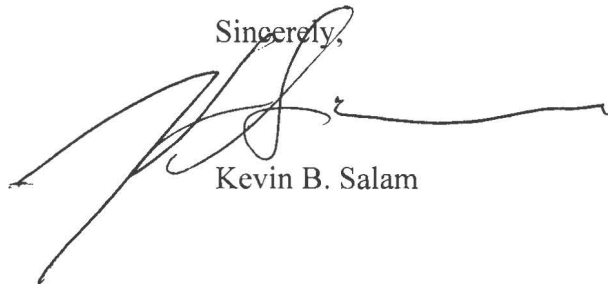
I have included as **Exhibit 4**, the total hits by data source. If a data source is not listed on this exhibit. It had zero hits.

I am working on a report that will show a breakout of hits by search term by data source and will provide as soon as complete.

Finally, I intend to put the information contained herein in a status report to the court, so it is in the record for this hearing.

Please feel free to call me with any questions or if need be, we can connect our respective e-discovery vendors so the experts can discuss any issues.

Sincerely,

A handwritten signature in black ink, appearing to be 'Kevin B. Salam', written over the printed name.

Kevin B. Salam

| ProcessingSet | | Processing Data Source | | Custodian | |
|--|--|---|--|---|--|
| 282001.002_bduke@21centurysmoking.com | | Items | | Duke, Brent | |
| 282001.002_bduke@evtcgs.com | | Items | | Duke, Brent | |
| 282001.002_bduke@farmersolution.com | | Items | | Duke, Brent | |
| 282001.002_brandon@21centurysmoking.com | | Items | | Duke, Brandon | |
| 282001.002_brentduke@yahoo.com | | Items | | Duke, Brent | |
| 282001.002_brentstantonduke@gmail.com | | Drive | | Duke, Brent | |
| 282001.002_brentstantonduke@gmail.com | | Items | | Duke, Brent | |
| 282001.002_bryan@21centurysmoking.com | | Items | | Kos, Bryan | |
| 282001.002_froggieandjim@21centurysmoking.com | | Items | | FroggieAndJim | |
| 282001.002_info@automaticcigarettes.com | | Items | | 21centurysmoking | |
| 282001.002_jason@21centurysmoking.com | | Items | | Kois, Jason | |
| 282001.002_krenar@21centurysmoking.com | | Items | | Koleci, Krenar | |
| 282001.002_laurie@21centurysmoking.com | | Items | | Duke, Laurie | |
| 282001.002_rob@21centurysmoking.com | | Items | | Link, Rob, misidentified as Hough, Robert | |
| 282001.002_robert@21centurysmoking.com | | Items | | Hough, Robert | |
| 282001.002_sales@21centurysmoking.com | | Items | | 21centurysmoking | |
| 282001.002_spraker@21centurysmoking.com | | Items | | Spraker, Steve | |
| 282001.002_support@21centurysmoking.com | | Items | | Duke, Laurie | |
| 282001.002_support@wholesaleelectroniccigarettes.com | | Items | | wholesaleelectroniccigarettes | |
| 282001.002_test@21centurysmokes.com | | Items | | 21centurysmokes | |
| 282001.002_test@21centurysmoking.com | | Items | | 21centurysmoking | |
| 282001.002_wholesale@automaticcigarettes.com | | Items | | automaticcigarettes | |
| 282001.003 Amazon | | Amazon | | 21centurysmoking | |
| 282001.003 Authorize.net | | Authorize.net | | Duke, Brent | |
| 282001.003 Dropbox - Brent Duke | | Dropbox - Brent Duke | | Duke, Brent | |
| 282001.003 brentlaurieduke@yahoo.com | | brentlaurieduke@yahoo.com | | Duke, Laurie | |
| 282001.003 duke.laurie@gmail.com | | duke.laurie@gmail.com | | Duke, Laurie | |
| 282001.003 laurie.duke@yahoo.com | | laurie.duke@yahoo.com | | Duke, Laurie | |
| 282001.003 laurienomanson@yahoo.com | | laurienomanson@yahoo.com | | Duke, Laurie | |
| 282001.003 twentyonecenturysmoking@gmail.com | | twentyonecenturysmoking@gmail.com | | Duke, Brent | |
| 282001.003 Exported Carbonite Files_Brent Duke | | Brent Duke | | Duke, Brent | |
| 282001.003 Exported Carbonite Files_Laurie Duke | | Laurie Duke | | Duke, Laurie | |
| 282001.003 Facebook - Brent Duke Facebook facebook-brentduke1 | | Brent Duke Facebook facebook-brentduke1 | | Duke, Brent | |
| 282001.003 Facebook_Pages | | Facebook Pages | | Duke, Brent | |
| 282001.003 Instagram - duke.brent_20190808 | | Instagram - duke.brent_20190808 | | Duke, Brent | |
| 282001.003 LinkedIn - Brent Duke | | LinkedIn - Brent Duke | | Duke, Brent | |
| 282001.003 PayPal - Activity Download | | PayPal - Activity Download.PDF | | Duke, Brent | |
| 282001.003 Twitter - 21csmokes | | Twitter - 21csmokes | | Duke, Brent | |
| 282001.003 Zencart | | Zencart | | Duke, Brent | |
| 282001.003 Exported Computer Files_SDDF001_DUKE_LT01-Samsung NP300V5A | | SDDF001_DUKE_LT01-Samsung NP300V5A | | Duke, Brent | |
| 282001.003 Exported Computer Files_SDDF002-DUKE-DT06-Generic DT | | SDDF002-DUKE-DT06-Generic DT | | Duke, Laurie | |
| 282001.003 Exported Computer Files_SDDF003_DUKE_LT02-Samsung NP-RV515 LT | | SDDF003_DUKE_LT02-Samsung NP-RV515 LT | | Duke, Laurie | |
| 282001.003 Exported Computer Files_SDDF005_DUKE_DT04-HP Pavilion DT | | SDDF005_DUKE_DT04-HP Pavilion DT | | Duke, Brent | |
| 282001.003 Exported Computer Files_SDDF006_DUKE_DT05-Sony Vaio DT | | SDDF006_DUKE_DT05-Sony Vaio DT | | Duke, Brent | |
| 282001.003 Exported Computer Files_SDDF007_DUKE_DT02-Acer Aspire DT | | SDDF007_DUKE_DT02-Acer Aspire DT | | Hough, Robert | |

| | | |
|--|---|------------------------|
| 282001.003 Exported Computer Files_SDDF008_DUKE_DT03-Acer Aspire DT | SDDF008_DUKE_DT03-Acer Aspire DT | Duke, Brent |
| 282001.003 Exported Computer Files_SDDF004_DUKE_DT01-SYX Midtower DT | SDDF004_DUKE_DT01-SYX Midtower DT | Brent Duke & Bryan Kos |
| | 282001.005 steve.spraker@gmail.com | Spraker, Steve |
| | 282001.006 bhduke@yahoo.com | Duke, Brandon |
| | 282001.008 21centurysmokingohio@gmail.com | Spraker, Steve |
| | 282001.009 Extracted AD1 files (Brandon's computer) | Duke, Brandon |
| Data Source/Phones | | |
| Brent Duke 1 - SM-G900T Galaxy S5 | | |
| Brent Duke 2 - Samsung Galaxy J7 | | |
| Laurie Duke Cell Phone | | |

| Source | Username | Status |
|--|--|---|
| Twitter | 21csmokes | Completed |
| Facebook Pages | Associated with Brent's Facebook account and support@21stcenturysmoking.com | Completed |
| Carbonite | bduke@21centurysmoking.com | Completed |
| Godaddy Email | bduke@21centurysmoking.com | Completed |
| Godaddy Email | bduke@evtcigs.com | Completed |
| Godaddy Email | bduke@farmersolution.com | Completed |
| Godaddy Email | brandon@21centurysmoking.com | Completed |
| Zencart, http://21brentduke | http://21brentduke | Completed |
| Authorize.net | brentduke | Completed |
| LinkedIn | brentduke@yahoo.com | Completed |
| Yahoo | brentduke@yahoo.com | Completed |
| Dropbox | brentduke@yahoo.com | Completed |
| Facebook | brentduke@yahoo.com | Completed |
| Yahoo | brentlaureduke@yahoo.com | Completed |
| Gmail | brentstantonduke@gmail.com | Completed |
| Godaddy Email | bryan@21centurysmoking.com | Completed |
| Instagram | duke.brent | Completed |
| Gmail | duke.laure@gmail.com | Completed |
| Godaddy Email | froggieandjim@21centurysmoking.com | Completed |
| Godaddy Email | info@automaticcigarettes.com | Completed |
| Godaddy Email | jason@21centurysmoking.com | Completed |
| Godaddy Email | krenar@21centurysmoking.com | Completed |
| Yahoo | laure.duke@yahoo.com | Completed |
| Godaddy Email | laure@21centurysmoking.com | Completed |
| Yahoo | laurienomanson@yahoo.com | Completed |
| Godaddy Email | rob@21centurysmoking.com | Completed |
| Godaddy Email | robert@21centurysmoking.com | Completed |
| Godaddy Email | sales@21centurysmoking.com | Completed |
| Godaddy Email | spraker@21centurysmoking.com | Completed |
| Godaddy Email | support@21centurysmoking.com | Completed |
| Amazon | support@21centurysmoking.com | Completed |
| Godaddy Email | support@sportsdoctrine.com | Completed |
| Godaddy Email | support@wholesaleelectroniccigarettes.com | Completed |
| Godaddy Email | test@21centurysmokes.com | Completed |
| Godaddy Email | test@21centurysmoking.com | Completed |
| Gmail | twentyonecenturysmoking@gmail.com | Completed |
| Godaddy Email | wholesale@automaticcigarettes.com | Completed |
| Phone | Laurie Duke Samsung Galaxy S4 | Completed |
| Live Email | robert.hough@live.com | Completed |
| Computer | Brandon Duke Asus X83V laptop | Completed |
| Gmail | 21centurysmokingohio@gmail.com | Completed |
| Gmail | steve.spraker@gmail.com | Completed |
| Yahoo Email | bhduke@yahoo.com | Completed |
| Paypal | support@21centurysmoking.com | Completed |
| Ebay | la11101 | Not collected, no data available |
| Yahoo | bsdatsuu@yahoo.com | Not collected, email account does not exist |
| Yahoo | twentyonecenturysmoking@yahoo.com | Not collected, email account does not exist |

| | | |
|-------------|--|---|
| Pinterest | 21 Century Smoking (21ecigs) | No login information available |
| PopRank | | No login information available |
| GroupOn | | No login information available |
| Ymail | laurieduke@gmail.com | No login information available |
| Yahoo Email | 21centurysmokin@yahoo.com | Not collected, email account does not exist |
| Craigslist | twentyonecenturysmoking@yahoo.com | Not collected, associated email account does not exist |
| bluePay | 21 Century Smoking / Smoking2009 / 33Norvita** | Not collected, Brent can no longer access |
| Gmail | 21centurysmoking21@gmail.com | Not collected, cannot access |
| Craigslist | brentlaurieduke@yahoo.com | Not collected, |
| Craigslist | duke.laurie@gmail.com | Not collected, |
| Craigslist | twentyonecenturysmoking@gmail.com | Not collected, |
| Craigslist | brentduke@yahoo.com | Not collected, no Craigslist login information available, collected associated email account |
| Craigslist | brentstantonduke@gmail.com | Not collected, no Craigslist login information available, collected associated email account |
| Craigslist | laurie.duke@yahoo.com | Not collected, no Craigslist login information available, collected associated email account |
| Craigslist | laurieduke@gmail.com | Not collected, no Craigslist login information available, collected associated email account |
| Craigslist | laurienomanson@yahoo.com | Not collected, no Craigslist login information available, collected associated email account |
| Craigslist | support@21centurysmoking.com | Not collected, no Craigslist login information available, collected associated email account |
| Craigslist | bsdatsu@yahoo.com | Not collected, no Craigslist login information available, associated email account does not exist |

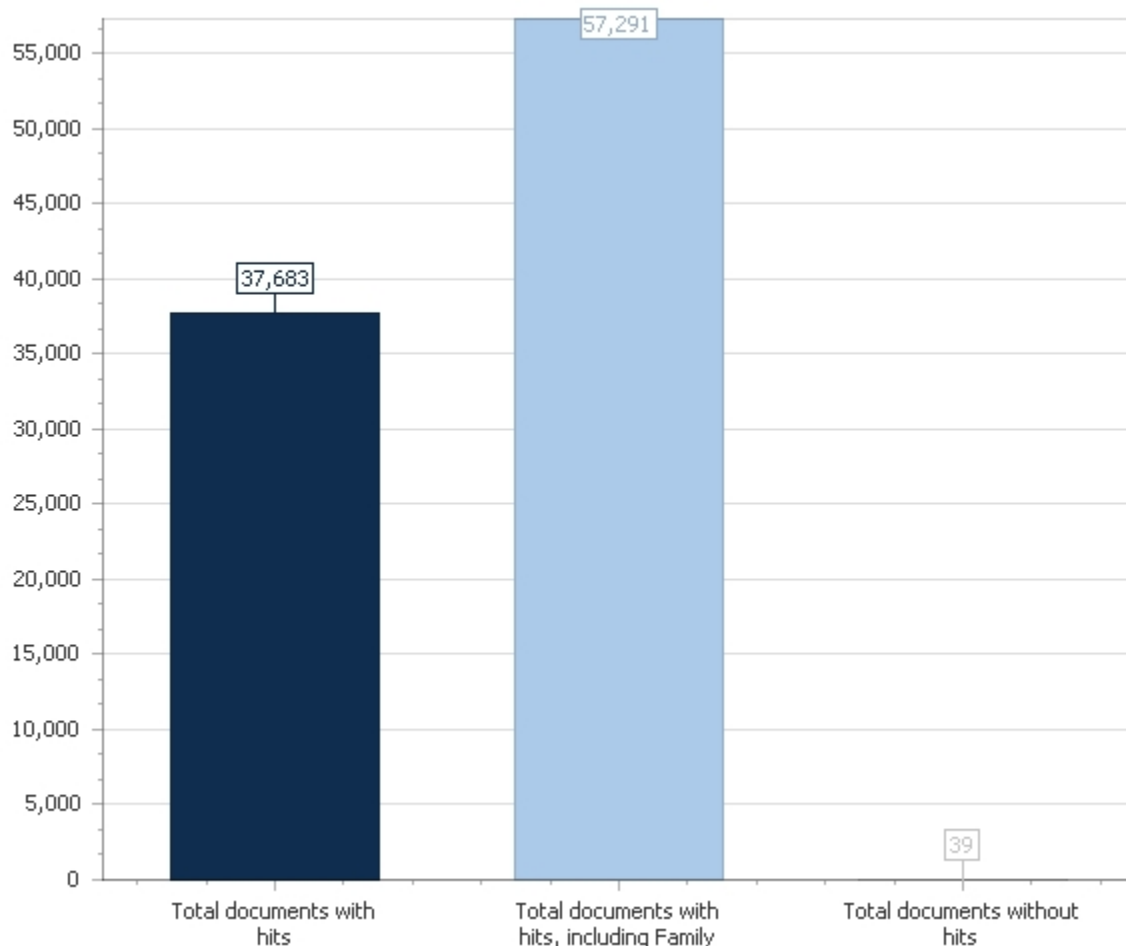


DR Dist v 21 Century & Duke - REV (282001)

Search Terms Report

Report Name: 21C001 - Keyword Hits in Prod Universe

Searchable Set: 21C001 - Potential Production Universe



Results Summary

| Documents in searchable set | Total documents with hits | Total documents with hits, including Family | Total documents without hits |
|-----------------------------|---------------------------|---|------------------------------|
| 57,330 | 37,683 | 57,291 | 39 |

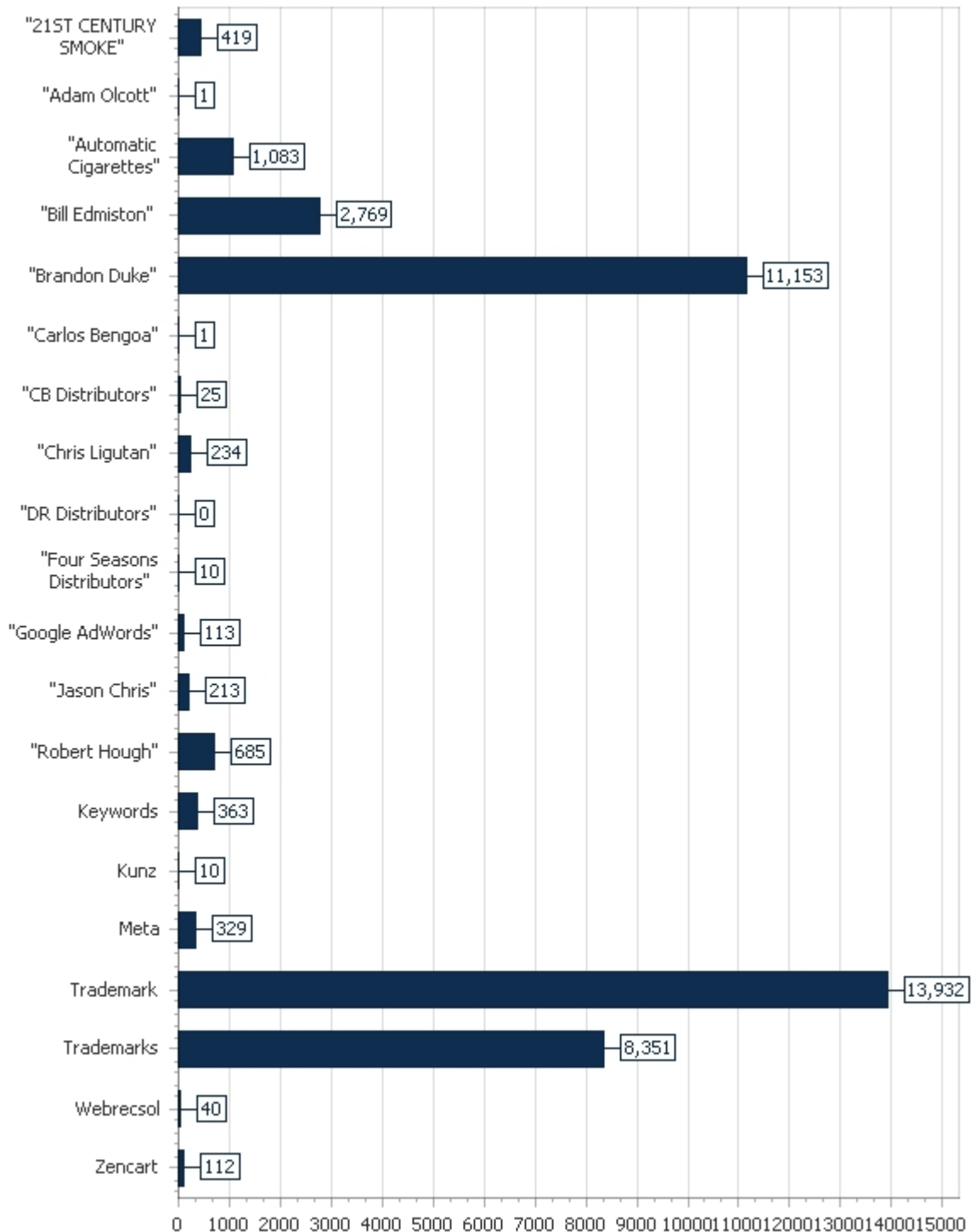
Exhibit 3 to November 13, 2019 Production Cover Letter

DR Dist v 21 Century & Duke - REV (282001)

Search Terms Report

Report Name: 21C001 - Keyword Hits in Prod Universe

Searchable Set: 21C001 - Potential Production Universe





DR Dist v 21 Century & Duke - REV (282001)

Search Terms Report

Report Name: 21C001 - Keyword Hits in Prod Universe

Searchable Set: 21C001 - Potential Production Universe

Terms Summary

| Term | Documents with hits | Documents with hits, including Family | Unique hits |
|-----------------------------|---------------------|--|-------------|
| "21ST CENTURY SMOKE" | 419 | 466 | 385 |
| "Adam Olcott" | 1 | 3 | 1 |
| "Automatic Cigarettes" | 1,083 | 1,279 | 800 |
| "Bill Edmiston" | 2,769 | 4,203 | 2,732 |
| "Brandon Duke" | 11,153 | 12,455 | 10,247 |
| "Carlos Bengoa" | 1 | 4 | 0 |
| "CB Distributors" | 25 | 28 | 11 |
| "Chris Ligutan" | 234 | 343 | 152 |
| "DR Distributors" | 0 | 0 | 0 |
| "Four Seasons Distributors" | 10 | 13 | 0 |
| "Google AdWords" | 113 | 116 | 42 |
| "Jason Chris" | 213 | 261 | 4 |
| "Robert Hough" | 685 | 786 | 616 |
| Keywords | 363 | 476 | 178 |
| Kunz | 10 | 13 | 0 |
| Meta | 329 | 585 | 276 |
| Trademark | 13,932 | 30,400 | 13,267 |
| Trademarks | 8,351 | 12,078 | 6,864 |
| Webrecsol | 40 | 40 | 37 |
| Zencart | 112 | 117 | 80 |

| Value | Count |
|--|--------|
| 282001.008 | 11 |
| 282001.005 | 34 |
| 282001.002_info@automaticcigarettes.com | 707 |
| 282001.003 Exported Computer Files_SDDF003_DUKE_LT02-Samsung NP-RV515 LT | 12 |
| 282001.003 duke.laurie@gmail.com | 270 |
| 282001.002_robert@21centurysmoking.com | 81 |
| 282001.002_spraker@21centurysmoking.com | 31 |
| 282001.002_support@21centurysmoking.com | 29,960 |
| 282001.009 | 105 |
| 282001.002_bduke@farmersolution.com | 15 |
| 282001.002_froggieandjim@21centurysmoking.com | 16 |
| 282001.003 Exported Computer Files_SDDF005_DUKE_DT04-HP Pavilion DT | 57 |
| 282001.003 Exported Computer Files_SDDF006_DUKE_DT05-Sony Vaio DT | 49 |
| 282001.006 | 17,386 |
| 282001.002_sales@21centurysmoking.com | 28 |
| 282001.003_Brent Duke 1 - SM-G900T Galaxy S5 | 41 |
| 282001.003 laurie.duke@yahoo.com | 1,270 |
| 282001.002_laurie@21centurysmoking.com | 8 |
| 282001.002_bduke@21centurysmoking.com | 5,886 |
| 282001.003 Exported Computer Files_SDDF008_DUKE_DT03-Acer Aspire DT | 2 |
| 282001.002_support@wholesaleelectroniccigarettes.com | 1 |
| 282001.002_brandon@21centurysmoking.com | 16 |
| 282001.002_jason@21centurysmoking.com | 597 |
| 282001.002_bryan@21centurysmoking.com | 327 |
| 282001.002_brentstantonduke@gmail.com | 74 |
| 282001.002_wholesale@automaticcigarettes.com | 346 |
| TOTAL | 57330 |

| A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V |
|--------------|--|--------------------|-------------|----------------------|---------------|--------------|---------------|-----------------|---------------|---------------------------|----------------|-------------|--------------|----------|------|------|-----------|------------|----------|---------|---------------------------------|
| | | | | | | | | | | | | | | | | | | | | | |
| Data Sources | Description (provided by Counsel) | 21ST CENTURY SMOKE | Adam Olcott | Automatic Cigarettes | Bill Edmiston | Brandon Duke | Carlos Bengoa | CB Distributors | Chris Liguian | Four Seasons Distributors | Google Adwords | Jason Chris | Robert Hough | Keywords | Kunz | Meta | Trademark | Trademarks | Webcsoal | Zencart | Total Docs With Hits Per Source |
| 1 | Brent Duke's company email account | 58 | 1 | 72 | 2,753 | 23 | 0 | 3 | 0 | 0 | 1 | 0 | 20 | 19 | 0 | 10 | 77 | 185 | 0 | 35 | 3,257 |
| 2 | bduke@21centurysmoking.com | | | | | | | | | | | | | | | | | | | | |
| 3 | bduke@farmersolution.com | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 12 | 0 | 0 | 0 | 13 |
| 4 | brandon@21centurysmoking.com | 0 | 0 | 0 | 9 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 11 |
| 5 | brenstian@duke@gmail.com | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 57 | 0 | 0 | 30 | 0 | 1 | 7 | 24 | 10 | 0 | 129 |
| 6 | bryan@21centurysmoking.com | 9 | 0 | 1 | 0 | 2 | 0 | 3 | 2 | 0 | 0 | 0 | 69 | 21 | 0 | 7 | 21 | 158 | 0 | 9 | 302 |
| 7 | froggiandlin@21centurysmoking.com | 0 | 0 | 0 | 0 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 6 | 0 | 0 | 0 | 0 | 9 | 0 | 0 | 22 |
| 8 | info@automaticcigarettes.com | 0 | 0 | 542 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 0 | 2 | 31 | 0 | 79 | 12 | 0 | 0 | 2 | 672 |
| 9 | jason@21centurysmoking.com | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 35 | 0 | 76 | 47 | 384 | 0 | 0 | 542 |
| 10 | laurie@21centurysmoking.com | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 3 |
| 11 | robert@21centurysmoking.com | 3 | 0 | 0 | 0 | 0 | 0 | 7 | 0 | 0 | 31 | 0 | 25 | 45 | 0 | 0 | 0 | 3 | 0 | 0 | 114 |
| 12 | sales@21centurysmoking.com | 0 | 0 | 18 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 8 | 0 | 0 | 0 | 0 | 27 |
| 13 | spraker@21centurysmoking.com | 0 | 0 | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 3 | 0 | 7 | 1 | 4 | 0 | 0 | 20 |
| 14 | support@21centurysmoking.com | 342 | 0 | 271 | 7 | 446 | 1 | 9 | 126 | 7 | 11 | 108 | 544 | 40 | 7 | 69 | 12,825 | 454 | 29 | 64 | 15,360 |
| 15 | support@wholesaleelectroniccigarettes.com | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| 16 | wholesale@automaticcigarettes.com | 1 | 0 | 177 | 0 | 0 | 0 | 3 | 105 | 3 | 0 | 105 | 0 | 0 | 3 | 0 | 0 | 20 | 0 | 0 | 417 |
| 17 | duke@laurie@gmail.com | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 5 | 0 | 2 | 6 | 0 | 1 | 26 | 256 | 0 | 0 | 296 |
| 18 | Files: SDDF003 DUKE LT02-Samsung | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 3 | 9 | 0 | 0 | 14 |
| 19 | Files: SDDF005 DUKE DT04-HP Pavilion DT | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 17 | 0 | 21 | 25 | 29 | 0 | 0 | 95 |
| 20 | Files: SDDF006 DUKE DT05-Sony Vaio DT | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 31 | 11 | 11 | 0 | 0 | 57 |
| 21 | Files: SDDF008 DUKE DT03-Acer Aspire DT | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 2 |
| 22 | laurie@duke@yahoo.com | 1 | 0 | 0 | 0 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 10 | 1 | 0 | 2 | 12 | 1,225 | 1 | 1 | 1,263 |
| 23 | Brent Duke 1 - SM-990T Galaxy S5 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 24 | 282001.005 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 20 | 0 | 0 | 0 | 20 |
| 25 | 282001.006 | 2 | 0 | 2 | 0 | 10,557 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 106 | 0 | 14 | 830 | 5,573 | 0 | 0 | 17,087 |
| 26 | 282001.008 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 5 | 0 | 0 | 2 | 1 | 0 | 0 | 11 |
| 27 | 282001.009 | 0 | 0 | 0 | 0 | 98 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 1 | 5 | 0 | 0 | 106 |
| 28 | Total Hits | 419 | 1 | 1,083 | 2,769 | 11,153 | 1 | 25 | 234 | 10 | 113 | 213 | 685 | 363 | 10 | 329 | 13,932 | 8,351 | 40 | 112 | 39,843 |
| 29 | Notes | | | | | | | | | | | | | | | | | | | | |
| 30 | * Documents without hits are generally members of a document family where another family member generated a hit. (e.g. an attachment to a parent email that contains a hit). | | | | | | | | | | | | | | | | | | | | |
| 31 | ** The Search Term "DR Distributors" returned zero hits within all data sources and is not listed in the above table. | | | | | | | | | | | | | | | | | | | | |
| 32 | | | | | | | | | | | | | | | | | | | | | |
| 33 | The Following eighteen (18) data sources returned zero search terms hits: | | | | | | | | | | | | | | | | | | | | |
| 34 | | | | | | | | | | | | | | | | | | | | | |
| 35 | 282001.002 bduke@evicigs.com | | | | | | | | | | | | | | | | | | | | |
| 36 | 282001.002 krenar@21centurysmoking.com | | | | | | | | | | | | | | | | | | | | |
| 37 | 282001.002 rob@21centurysmoking.com | | | | | | | | | | | | | | | | | | | | |
| 38 | 282001.002 test@21centurysmokes.com | | | | | | | | | | | | | | | | | | | | |
| 39 | 282001.002 test@21centurysmoking.com | | | | | | | | | | | | | | | | | | | | |
| 40 | 282001.003 Amazon | | | | | | | | | | | | | | | | | | | | |
| 41 | 282001.003 Authorize.net | | | | | | | | | | | | | | | | | | | | |
| 42 | 282001.003 Dropbox - Brent Duke | | | | | | | | | | | | | | | | | | | | |
| 43 | 282001.003 brentlaureduke@yahoo.com | | | | | | | | | | | | | | | | | | | | |
| 44 | 282001.003 lauren@omanson@yahoo.com | | | | | | | | | | | | | | | | | | | | |
| 45 | 282001.003 twentycenturysmoking@gmail.com | | | | | | | | | | | | | | | | | | | | |
| 46 | 282001.003 Facebook Brent Duke Facebook facebook facebook-brentduke1 | | | | | | | | | | | | | | | | | | | | |
| 47 | 282001.003 Facebook Facebook Pages | | | | | | | | | | | | | | | | | | | | |
| 48 | 282001.003 Instagram - duke.brent.20190808 | | | | | | | | | | | | | | | | | | | | |
| 49 | 282001.003 LinkedIn - Brent Duke | | | | | | | | | | | | | | | | | | | | |
| 50 | 282001.003 PayPal - Activity Download | | | | | | | | | | | | | | | | | | | | |
| 51 | 282001.003 Twitter - 21csmokes | | | | | | | | | | | | | | | | | | | | |
| 52 | 282001.003 Zencart | | | | | | | | | | | | | | | | | | | | |

Exhibit 5: Search Terms by Hits by Data Source based on 11/13/2019 production of 21C2000001 to 21C2133674

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

DR DISTRIBUTORS, LLC, and CB
DISTRIBUTORS, INC.

Plaintiffs/Counterclaimant,

V.

21 CENTURY SMOKING, INC., and
BRENT DUKE,

Defendant/Counterclaim Defendant

21 CENTURY SMOKING, INC.,

Counterclaimant,

v.

DR DISTRIBUTORS, LLC, CB
DISTRIBUTORS, INC. and CARLOS
BENGOA,

Counterclaim Defendants.

Case No. 3:12-cv-50324
Judge Thomas M. Durkin
Magistrate Judge Iain Johnston

DECLARATION OF DANIEL R. RIZZOLO

I am over the age of eighteen.

1. I am an attorney and independent consultant specializing on matters related to digital evidence and legal operations. My areas of practice include digital forensics, complex e-discovery, data analytics, operational efficiency and expert witness consulting services. My curriculum vitae is attached hereto.

2. I have been retained by attorney Kevin B. Salam on behalf of the Defendants to consult and assist Defendants' current attorneys with respect to the forensic analysis of electronically searchable information ("ESI") involved in the above captioned matter.

3. I have reviewed in Relativity the production Bates numbered 21C2000001 to 21C2136674 referred to in the November 13, 2019 letter from Mr. Salam to Mr. Davis and Mr. von Ohlen, attached to the Declaration of Kevin B. Salam as Exhibit A. I have also reviewed Exhibits 1-5 attached to the Declaration of Kevin B. Salam.

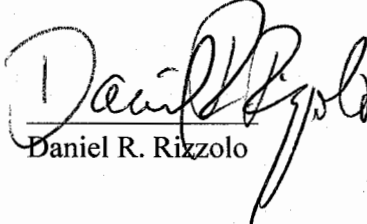
4. Based on my experience and knowledge in the use of Relativity, I have confirmed that the information contained in Exhibits 1, 3 and 4 is an accurate summary of the data sources searched for the twenty search terms indicated therein and the hits for such terms within the data sources searched.

5. Exhibit 5 attached to the Declaration of Kevin B. Salam, is a report prepared by me based on my review in Relativity of the production Bates numbered 21C2000001 to 21C2136674. Exhibit 5 accurately reflects the search terms hits by data source.

FURTHER DECLARANT SAYETH NAUGHT.

Pursuant to 28 U.S.C. §1746, I, Daniel R. Rizzolo, under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed November 14, 2019.


Daniel R. Rizzolo

Daniel R. Rizzolo



RIZZOLO CONSULTING

Mr. Rizzolo is an independent consultant specializing on matters related to digital evidence and legal operations. Mr. Rizzolo is an attorney who has spent most of his career in consulting and operations positions related to disputes, corporate investigations, IT, finance, operations management, and outsourcing. His current areas of practice include digital forensics, complex e-discovery, data analytics, operational efficiency and expert witness consulting services.

Mr. Rizzolo's relevant experience ranges from small matters representing individual litigants to some of the largest and most complex legal data exercises in the world, including large bank failures, "Obamacare" litigation, the Madoff disputes, the Enron matters and high-profile criminal actions. He has led data and computer forensic teams responding to SEC, DOJ and OIG investigations. He has worked with U.S. and foreign clients on disputes involving mass torts, accountant's liability, securities and bank fraud, mergers & acquisitions, bankruptcy, intellectual property, and a variety of other civil and criminal claims. Mr. Rizzolo has advised in-house counsel and law firm management on systems strategy, discovery management, and information governance. He also managed an outsourced litigation support, IT and facilities management operation of 215 employees for four years.

Before starting Rizzolo Consulting, Mr. Rizzolo co-founded Esicon Consulting, and held senior management and consulting positions with Control Risks Group, OmniVere, Navigant Consulting, Bowne & Company (where he was embedded at Sidley Austin), and Arthur Andersen. During law school, he clerked for the United States Department of Justice Organized Crime Strike Force in Philadelphia.

Mr. Rizzolo received a J.D. from Villanova University School of Law and a B.A. in English and Rhetoric from the University of Illinois. He publishes and speaks on topics related to electronic discovery, computer forensics, cyber security, and information technology. Mr. Rizzolo is a member of the 7th Circuit's E-discovery Pilot Program, where he is a Co-chair of the E-mediation Subcommittee. He is also an adjunct professor and has taught electronic discovery law at the Loyola University of Chicago School of Law since 2013.

Contact

225 ½ Greenwood Street
Evanston, IL 60201
U.S.A.

Office: 872.888.6155
Mobile: 847.471.9255

dan@keeping-pace.net

Education

Villanova Law School

J.D., 1985

Member Villanova Law Review

University of Illinois

B.A., 1982

Professional Associations

Member of the Illinois Bar
7th Circuit E-discovery Pilot
Program: Co-chair of the
E-mediation Subcommittee
American Bar Association

Community & Civic Associations

Former Technology Committee
Member CARPLS legal aid
service

Former Chair, Glencoe Village
Caucus

Former Race Director, Hoof it
for Haiti 5k Run

Former Board Member, Wilmette
Sister Cities

Former Board Member, Sacred
Heart Youth Mission